IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

F. LEE BAILEY,
Respondent

CASE NO. SC96767
TFB No. 1996-51,085 (15B)
1997-50,110 (15B)

RESPONDENT'S RESPONSE TO
COMPLAINANT'S EXPERT INTERROGATORIES

COMES NOW Respondent, F. Lee Bailey, and files the following answers to Complainant's Expert Interrogatories with respect to Respondent's expert witness Timothy P. Chinaris:

1. Please identify which witness, if any, on Respondent's Witness List you intend to call as an expert witness.

Timothy P. Chinaris.

2. With respect to each person identified in Interrogatory 1, state (i) the witness' qualifications as an expert; (ii) the specific subject matter upon which the witness is expected to testify; (iii) the substance of the facts and all opinions to which the witness is expected to testify; (iv) a summary of the grounds for each opinion; and (v) the compensation or method of calculating compensation, if any, to be paid to the expert in connection with this testimony in this proceeding.

(i) The witness's qualifications as an expert are set forth on the accompanying curriculum vitae ("Exhibit A").

(ii) The witness is expected to testify concerning the ethical propriety of the respondent's conduct as described in the Complaint.

(iii) The substance of the facts and opinions to which the witness is expected to testify are follows:

(A) Mr. Bailey's actions in connection with the transfer of the Japanese stock proceeds to the government were, at most, a technical violation of the trust accounting rules. The funds were deposited into a non-trust account due to a simple error. All funds were completely accounted for and promptly delivered to the government as agreed. No one was harmed.

(B) Mr. Bailey did not act unethically in his handling of the Biochem Pharma stock.

(1) Ownership of these shares was transferred to Mr. Bailey by his client, and thus he had no ethical obligation to maintain any sale or loan proceeds from these shares in a trust account. To the contrary, maintaining such funds in a trust account would have been improper commingling. There was no misappropriation because the stock was Mr. Bailey's property.

(2) Mr. Bailey's acceptance of the Biochem Pharma stock from his client was not a violation of the conflict of interest rule. The negotiations regarding divestiture of assets and the plea to be entered were conducted by Mr. Bailey for his client's benefit, and transfer of the stock was part of the arrangement. The client consented to the stock

transfer in writing. No one disputes that the agreement reached was a favorable one for Mr. Bailey's client.

(C) Mr. Bailey did not violate the Rules of Professional Conduct by continuing to expend funds relating to the Biochem Pharma stock following entry of the court's "freeze" order. Because he was not served with the order and had not seen it, Mr. Bailey did not "knowingly disobey an obligation under the rules of a tribunal" as prohibited by Rule 4-3.4.

(D) Mr. Bailey did not violate the Rules of Professional Conduct in his testimony relating to the court's January 12, 1996, and January 25, 1996, orders. The violations alleged by the Bar require knowledge or intent on the part of the lawyer. Mr. Bailey believed that his testimony was truthful when given.

(E) The January 4, 1996, letter from Mr. Bailey to Judge Paul did not violate the Rules of Professional Conduct.

(1) There is no evidence that Mr. Bailey intended to improperly "influence" the judge, as prohibited by Rule 4-3.5.

(2) The letter was written in conformity with Mr. Bailey's ethical obligations; he was reporting the misconduct of another lawyer to the judge pursuant to Rule 4-8.3, and was attempting to prevent or rectify the commission of a fraud on the court as required by Rule 4-3.3.

(3) There was no violation of the confidentiality rules. Even assuming that the information in question was protected from the government and the judge by Rule 4-1.6, Mr.

Bailey's obligation of candor to the tribunal under Rule 4-3.3 is a mandatory exception to the confidentiality rule. Furthermore, Mr. Bailey was using the information in question for his client's benefit, not to his client's disadvantage.

(F) The January 21, 1996, letter from Mr. Bailey to Judge Paul did not violate the Rules of Professional Conduct.

(1) A copy of the letter was promptly delivered to the government.

(2) Even assuming that the information in question was confidential with respect to the government and the judge, Mr. Bailey is permitted by Rule 4-1.6 to disclose such information to the extent reasonably necessary to defend his conduct.

(G) It would be unethical as a conflict of interest for the government attorneys to ask Mr. Bailey to enter into a trust arrangement of the type that the government and the Bar have alleged existed.

(iv) The opinions of the expert witness are based upon the facts as presented to him (see list of materials reviewed, "Exhibit B"), the Florida Rules of Professional Conduct, relevant case law, and relevant ethics opinions.

(v) The expert witness is to be paid for time expended based on an hourly rate of $200 ($100 for travel time), plus reimbursement for reasonable expenses incurred.

STATE OF FLORIDA

COUNTY OF DUVAL

BEFORE ME, the undersigned authority, personally appeared TIMOTHY P. CHINARIS, who, after being duly sworn, states that the foregoing Responses to Complainant's Expert Interrogatories are true and correct to the best of his knowledge.

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TIMOTHY P. CHINARIS

Subscribed and sworn to before me
this ___ day of May, 2000, by
TIMOTHY P. CHINARIS
who ( ) is personally known to me or
who ( ) produced the following
identification:

_____

_____

NOTARY PUBLIC